

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

AMEL DALLUGE,

Petitioner,

vs.

MAGGIE MILLER-STOUT,

Respondent.

NO. CV-08-358-LRS

ORDER DENYING MOTION FOR
RECONSIDERATION

BEFORE THE COURT is Petitioner's Motion to Reconsider (Ct. Rec. 11). By Order filed February 9, 2008, the court dismissed Mr. Dalluge's Petition for failure to exhaust state court remedies. Petitioner is challenging his 2006 Grant County jury conviction for Second Degree Assault, as enhanced by an allegedly illegal 1997 conviction for two counts of third degree rape. An appeal of the present conviction is currently pending in the state courts.

Motions for reconsideration serve a limited function. "[T]he major grounds that justify reconsideration involve an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice."

Pyramid Lake Paiute Tribe v. Hodel, 882 F.2d 364, 369 n.5 (9th Cir. 1989). Such motions are not the proper vehicle for offering evidence or theories of law that were available to the party at the

1 time of the initial ruling. *Fay Corp. v. Bat Holdings I, Inc.*, 651
2 F.Supp. 307, 309 (W.D. Wash. 1987).

3 In the instant case, Petitioner has not alleged that there has
4 been an intervening change of controlling law. Likewise, he has
5 not offered newly discovered evidence that would justify this court
6 taking a second look at the issue in question. Thus, the only
7 remaining question is whether the court should alter its prior
8 ruling in order to "correct a clear error or prevent manifest
9 injustice." *Pyramid Lake*, 882 F.2d at 369 n.5. The court has
10 already explained to Petitioner that he needs to first exhaust
11 state court remedies before pursuing a federal habeas action. The
12 court acknowledges Mr. Dalluge's continued argument the exhaustion
13 requirement should not be applied to his federal petition, but is
14 unpersuaded by it.

15 Accordingly, **IT IS ORDERED** the Motion for Reconsideration (Ct. Rec.
16 11) is **DENIED**.

17 **IT IS SO ORDERED.** The District Court Executive is directed to
18 enter this Order, forward a copy to Petitioner and close the file.
19 Again, the court certifies that pursuant to 28 U.S.C. § 1915(a)(3),
20 an appeal from this decision could not be taken in good faith, and
21 there is no basis upon which to issue a certificate of
22 appealability. 28 U.S.C. § 2253(c); Fed. R.App. P. 22(b).

23 **DATED** this 2nd day of March, 2009.

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25 **s/Lonny R. Suko**

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27 LONNY R. SUKO
28 UNITED STATES DISTRICT JUDGE